

1 JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

2 BRIAN J. STRETCH (CABN 163973)
3 Chief, Criminal Division

4 MAUREEN C. BESSETTE (NYSBN 2468254)
KESLIE STEWART (CABN 184090)
5 Assistant United States Attorneys
1301 Clay Street, Suite 340S
6 Oakland, CA, 94612
7 Telephone: (510) 637-3691
Facsimile: (510) 637-3724
E-mail: maureen.bessette@usdoj.gov

8 Attorneys for United States

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA,) No. CR07-00126 DLJ
14 Plaintiff,)
15) STIPULATION AND **PROTECTIVE ORDER RE:**
16 v.) RETAILER'S SENSITIVE INFORMATION
17 HASSAN SWAID and SUFIAN AL)
KHALIDI,)
18 Defendants.)
19

20 As part of its case at trial, the United States will produce sensitive cost and sell price
21 information in Government Exhibit 121 and 122 from retailers in order to show that the
22 defendants' prices were very low, and at times below the cost price of retailers. Because this
23 information is sensitive and its disclosure to anyone other than the defense attorneys, the
24 defendants, the court, certain government witnesses and the jury, could jeopardize retailers, the
25 parties stipulate, and the Court orders, that disclosure of this information shall be subject to the
26 following restrictions:

27 1. Except when being actively examined for the purpose of the preparation of the
28 defense of the defendants Hassan Swaid and Sufian Al Khalidi, this cost information produced

1 by the United States to defense counsel, Paul Wolf, Erik Babcock, Lynn Keslar, Adam Pennella,
2 shall be maintained in a locked and secure drawer, cabinet, or safe which is accessible only to
3 Mr. Wolf, Mr. Babcock, Ms. Keslar, Mr. Pennella and their investigators. Mr. Wolf, Mr.
4 Babcock, Ms. Keslar, Mr. Pennella, and their investigators, shall not permit any person access of
5 any kind to this information, except as set forth below.

6 2. The following individuals may examine the LFC diagram for the sole purpose of
7 preparing the defense of defendants Swaid and Al Khalidi and for no other purpose:

8 a) Counsel for defendant Swaid, Paul Wolf and Lynn Keslar and members and
9 employees of their law firms;
10 b) Counsel for defendant Al Khalidi, Eric Babcock and Adam Pennella and members
11 and employees of their law firms;
12 c) Defendants Swaid and Al Khalidi, but only in the presence of their attorney;
13 d) The investigators, expert witnesses and paralegals retained by the defendants to
14 assist in the defense of this matter. If defense counsels determine that additional individuals are
15 needed to review this information, they must obtain a further order of the Court before allowing
16 any other individual to review the material.

17 3. A copy of this order shall be maintained with the pricing information at all times.

18 4. All individuals other than defendants Swaid and Al Khalidi, Mr. Wolf, Mr. Babcock,
19 Ms. Keslar and Mr. Pennella who receive access to the materials pursuant to this Order, prior to
20 receiving access to the materials, shall sign a copy of this Order acknowledging that:

21 a) they have reviewed the Order;
22 b) they understand its contents;
23 c) they agree that they will only access the pricing information for the purposes of
24 preparing a defense for defendants Swaid and Al Khalidi;
25 d) they will not make any copies of the pricing information; and
26 e) they understand that failure to abide by this Order may result in sanctions by this
27 Court.

28 Counsel for the defendants shall promptly file with the Court signed acknowledgments of this

1 Order, ex parte and, at counsel's discretion, under seal.

2 5. No other person may be allowed to examine the material without a further Court
3 order. Examination of the pricing information shall be done in a secure environment which will
4 not expose the materials to other individuals not listed above.

5 6. No copies of the pricing information may be made without further court order.

6 7. Any pleadings that include or make reference to the pricing information or its contents
7 shall be filed under seal.

8 8. Within 5 court days of the final resolution of this matter, whether by verdict,
9 judgement and sentencing hearing, or the final resolution of any appeal or petition for writ of
10 certiorari sought by defendants should there be a conviction following trial, all material provided
11 to defense counsels pursuant to this Order, and all other authorized copies, if any, shall be
12 returned to the United States. The United States shall destroy them. If defendants believe that
13 they must maintain the material for any reason related to appeal, defendants must seek

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 authorization from the District Court within 5 days of the sentencing and judgement in this
2 matter.

3 STIPULATED:

4 DATED: _____/s/
5 PAUL WOLF, ESQ.
6 Attorney for defendant Hassan Swaid

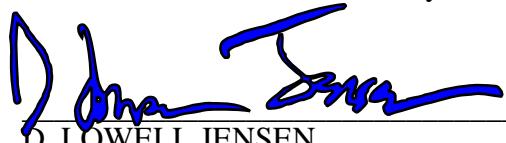
7 DATED: 5/19/09
8
9 DATED: 5/19/09
10
11 DATED: 5/19/09
12
13
14 DATED: 5/19/09
15
16 IT IS ORDERED.
17 DATED: 5/21/09
18
19
20
21
22
23
24
25
26
27
28

_____/s/
LYNN KESLAR, ESQ.
Attorney for defendant Hassan Swaid

_____/s/
ERIK BABCOCK, ESQ.
Attorney for defendant Sufian Al Khalidi

_____/s/
ADAM PENNELLA, ESQ.
Attorney for defendant Sufian Al Khalidi

_____/s/
MAUREEN C. BESSETTE
KESLIE STEWART
Assistant United States Attorneys



D. LOWELL JENSEN
United States District Court Judge